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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 LEROY SINGLETON,

11 Plaintiff,

12 v.

13 BOB FERGUSON,

14 Defendant.

CASE NO. C14-0756JLR

ORDER ADOPTING REPORT  
AND RECOMMENDATION

15 Before the court is the Report and Recommendation (“R&R”) of Magistrate Judge  
16 Brian A. Tsuchida (R&R (Dkt. # 3)) and Petitioner Leroy Singleton’s objections thereto  
17 (Objections (Dkt. # 4)). This is a habeas corpus case. On May 20, 2014, Mr. Singleton  
18 filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. (Petition (Dkt. # 1).)  
19 In the petition, he challenges the constitutionality of his December, 2005, state court  
20 conviction for assault in the second degree with a deadly weapon. (*See id.* at 6-7.) He  
21 has already served his sentence for this conviction but continues to be subject to an  
22 ongoing financial responsibility arising therefrom. (*See id.* at 2-3.)

1 On May 22, 2014, Magistrate Judge Brian Tsuchida issued an R&R  
 2 recommending that the court transfer this petition to the Ninth Circuit Court of Appeals.  
 3 Under Ninth Circuit Rule 22-3(a), a second or successive § 2254 motion must be  
 4 transferred to the Ninth Circuit:

5 Any petitioner seeking leave to file a second or successive 2254 petition  
 6 or 2255 motion in district court must seek leave under 28 U.S.C. §§ 2244 or  
 7 2255. . . . If a second or successive petition or motion, or application for  
 leave to file such a petition or motion, is mistakenly submitted to the  
 district court, the district court shall refer it to the court of appeals.

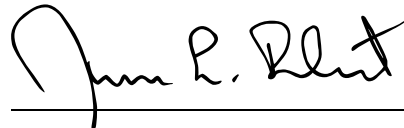
8 Ninth Circuit Rule 22-3(a); 28 U.S.C. 2244(b)(3)(A). Magistrate Judge Tsuchida  
 9 recommended that this petition be transferred to the Ninth Circuit because, as Mr.  
 10 Singleton admits, this is his second § 2254 petition regarding this conviction. (R&R at 2-  
 11 3.)

12 Mr. Singleton's objections to the R&R do not raise any new or novel points that  
 13 suggest a different course of action is warranted. Indeed, Mr. Singleton admits that "it  
 14 does appear[sic] that Petitioner's current 2254-petition is a second or successive 2254-  
 15 petition that needs the Ninth Circuit's approval to be file[sic] in this Court for purpose of  
 16 28 U.S.C. § 2244 . . . ." (Objections at 3.) Instead, he suggests that there are "additional  
 17 facts" that Magistrate Judge Tsuchida did not consider, and that given these facts the  
 18 court should deviate from the ordinary procedure set forth in Ninth Circuit Rule 22-3(a)  
 19 and 28 U.S.C. 2244(b)(3)(A). (*See id.* at 3-4.) Mr. Singleton's "additional facts" consist  
 20 of arguments for why the Ninth Circuit should grant leave to file a second or successive  
 21 petition. (*Id.* at 2-4.) They do not provide any authority, evidence, or argument that  
 22 suggest it would be appropriate for the court to consider a second or successive petition

1 or, for that matter, to consider a request for leave to file such a petition when the rules  
2 assign that task to the Ninth Circuit.

3 Accordingly, the court ADOPTS the R&R in its entirety and TRANSFERS Mr.  
4 Singleton's petition to the Ninth Circuit for consideration as a second or successive  
5 petition. The court DIRECTS the clerk to send copies of this order to Petitioner and to  
6 Magistrate Judge Tsuchida, and to transfer the case to the Ninth Circuit Court of Appeals.

7 Dated this 2nd day of July, 2014.

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10 JAMES L. ROBART  
11 United States District Judge  
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